

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DARRYL BOYD,

Plaintiff,

- against -

CAPTAIN WARD,

Defendant.  
-----X

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ELECTRONICALLY FILED**

**DOC #:** \_\_\_\_\_

**DATE FILED:** Jul 09 2007

07 Civ. 736 (PAC) (THK)

OPINION & ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Plaintiff Darryl Boyd ("Boyd") brings this action against Defendant Captain Ward ("Ward"), under 42 U.S.C. § 1983, alleging assault by the correctional officer and seeking damages for injuries suffered. This case was referred by this Court to United States Magistrate Judge Theodore H. Katz, who issued his Report and Recommendation ("R&R") on June 6, 2007, recommending that the action be dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 4(m), because of Plaintiff's failure to effect service of the Summons and Complaint upon the Defendant. The Magistrate Judge provided ten days for written objections, pursuant to Federal Rule of Civil Procedure 72(b), and specifically advised that the failure to file objections "will result in a waiver of those objections for purposes of appeal." (R&R 2). No objections have been filed.

### DISCUSSION

"To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). The Court finds no clear error in Magistrate Judge Katz's determinations that:

(1) Boyd did not serve Defendant with Summons and Complaint within the time allotted under Federal Rule of Civil Procedure 4(m);

(2) Boyd did not provide the United States Marshal's Service with the necessary forms for service; and

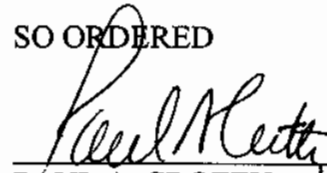
(3) no showing of good cause for the delay having been made, the Court should dismiss Boyd's claims without prejudice.

Accordingly, the Court accepts and adopts the Report and Recommendation as its opinion. Plaintiff's claims are dismissed without prejudice. Pursuant to 28 U.S.C. § 1915(a), I find that any appeal from this order would not be taken in good faith. Boyd did not file objections to the Report and Recommendation, as he was required to do in order to preserve his right to appeal.

The Clerk of the Court is directed to close out this case.

Dated: New York, New York  
July 5, 2007

SO ORDERED

  
\_\_\_\_\_  
PAUL A. CROTTY  
United States District Judge

Copies Mailed To:

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